

MASS. HS20.2: D71

UMASS/AMHERST



312066016589283

Argeo Paul Cellucci
Governor

Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Transitional Assistance

600 Washington Street • Boston MA 02111

PERMANENT DOCUMENTS
COLLECTION

OCT 18 1998

University of Massachusetts
Depository Copy

William D. O'Leary
Secretary

Claire McIntire
Commissioner

Field Operations Memo 97-49
September 1, 1997

To: Local Office Staff

From: Joyce Sampson, Assistant Commissioner for Field Operations

Re: Domestic Violence - TAFDC

Introduction The Department has adopted regulations (State Letter 1134) and procedures that explain when certain program requirements (work program, the family cap rule and the 24-month time limit) will be waived for good cause due to domestic violence. At application, eligibility review and other appropriate times, workers must:

- give applicants and recipients the opportunity to review the pamphlet entitled *You and Your Children Deserve To Be Safe*, which describes the signs of domestic violence and informs them of the services available to victims of domestic violence. This brochure must also be available for recipients to read in the waiting area;
- inform applicants and recipients of the program waivers that may be requested if domestic violence is present;
- explain the good cause regulations and procedures for domestic violence; and
- assist applicants and recipients with the good cause process, upon request.

**What is
Domestic
Violence?**

Domestic violence exists if any of the following acts were committed by a former or current partner, relative or household member:

- physical acts that resulted in or threaten to result in physical injury;

**What is
Domestic
Violence?
(continued)**

- sexual abuse;
- sexual activity involving a dependent child;
- forced, nonconsensual sexual acts or activities;
- threats of or attempts at physical or sexual abuse;
- mental or emotional abuse which would significantly reduce the victim's capacity to care for himself or herself or his or her children or significantly reduce the victim's capacity to perform essential activities of daily living;
- neglect or deprivation of medical care; or
- stalking.

Refer to 106 CMR 203.110 for more details.

Good Cause

At any time, an individual claiming to be a victim of domestic violence may *request* a waiver of the work program requirement, the family cap rule or the 24-month time limit. However, these requirements may be *waived* only at the time they are to be imposed. Therefore, a request to waive the 24-month time limit may only be approved when the recipient is at or beyond the 22nd month of his or her time-limited benefits.

All requests to have program requirements waived because of good cause due to domestic violence must be signed by a unit supervisor and director or designee. Domestic violence waiver requests must be logged and tracked by a director or designee on the Domestic Violence Waiver Log. A victim of domestic violence may request a good cause waiver from any one or all three requirements. To establish good cause for a waiver, the recipient must demonstrate that imposition of the specific program requirement:

- makes it more difficult for the applicant, recipient or his or her child to escape domestic violence;
- unfairly penalizes the applicant, recipient or child as a current or former victim of domestic violence, or as a person at risk of further domestic violence; or

**Good Cause
(continued)**

- places the applicant, recipient or child at risk of domestic violence which may result in serious harm or emotional impairment of such severity that it would significantly reduce the victim's capacity to perform essential activities of daily living.

Note: Although there are no child support waivers due to domestic violence, an applicant or recipient who is a victim of domestic violence may have good cause not to cooperate with certain child support enforcement requirements. *There is a separate set of regulations and procedures regarding this process.* (Refer to 106 CMR 203.700 through 203.775 for more details.)

**Worker
Responsi-
bilities**

If at any time the applicant or recipient informs the worker that he or she is a victim of domestic violence, the worker must:

- refer the victim to community-based domestic violence programs for support if there are any questions, concerns or needs for emergency safety planning as a result of domestic violence (These supports are listed in the *You and Your Children Deserve to Be Safe* brochure); and
- explain how to apply for a waiver due to domestic violence. This includes what constitutes good cause, what constitutes acceptable verification of good cause and how it relates to the work program requirement, the family cap and the 24-month time limit (Refer to 106 CMR 203.110).

If a recipient requests a waiver of the work program, the family cap rule or the 24-month time limit due to domestic violence, the worker must:

- have the applicant or recipient complete and sign a Request for Domestic Violence Waiver from Certain Program Requirements;
 - submit a copy of the signed request to the supervisor;
-

Worker
Respon-
sibilities
(continued)

- assist the recipient in obtaining verification if the recipient requests assistance;
- explain that due to the sensitive nature of the situation, the results of the waiver and any other communications regarding the waiver request must be conveyed privately in the local office to avoid putting the victim at further risk;
- review the verification(s) submitted by the applicant or recipient making sure he or she understands the criteria specified in 106 CMR 203.110 (D);
- complete a Domestic Violence History form; and
- submit copies of the waiver request form, verifications and the Domestic Violence History form to a supervisor as soon as the verification(s) are received.

NOTE: If the recipient signs a waiver request form, but he or she does not provide verifications, the waiver request must be monitored for thirty days. At the end of the thirty day period, if verifications are still not provided, submit a copy of the signed waiver request form to your supervisor.

When the waiver request is for the work program requirement, proceed as if a waiver has been granted until a decision is made on the waiver request. Code ESP MIS with activity code "059", Director Approved Waiver in block 23. Remember to update ESP MIS if the waiver is subsequently denied. (Refer to page seven in this memo for more information on waiver denials.)

If the waiver of a family cap is requested due to domestic violence, the child is **not added** to the budget unless and until a Central Office approval of the waiver is made. However, the child may be eligible for food stamps and MassHealth benefits. Refer to the *TAFDC Procedural Guide*, Chapter 6 for information on the PACES coding of these cases and other general information on these cases.

**Super-
visor
Respon-
sibilities**

All domestic violence waiver requests must be submitted to a supervisor who in turn must:

- review and sign the waiver request form; and
 - submit the request with all verifications to the director, or
 - ensure that at the end of thirty days, if verifications are not provided, the request is submitted to the director or his or her designee.
-

**Director/
Designee
Respon-
sibilities**

The director or his or her designee is responsible for the overall management of each domestic violence waiver request. He or she is also responsible for signing each waiver request form, and maintaining the Domestic Violence Waiver Log .

Within 48 hours after the verifications are provided by the recipient, the waiver request form and all pertinent documentation should be faxed by the director or his or her designee to Central Office, Trish Campbell, Field Operations at (617) 348-8575.

If verifications are not provided, but a waiver request form has been signed by the recipient, the director or his or her designee must ensure that after thirty days, the waiver request form is faxed to Central Office.

**Confi-
dential-
ity**

All recipients are guaranteed confidentiality and it is critical that workers carefully guard the confidentiality of a recipient who claims to be the victim of domestic violence. See Field Operations Memo 97-15.

**Waiver
Decision**

Central Office will provide a written notification to the local office director of the outcome and details of the waiver request. The results of the waiver request once conveyed to the local office must be transmitted to the recipient by the worker.

**Waiver
Decision
(continued)**

The worker must:

- send an AL-1 Appointment Letter and **schedule an appointment without divulging, in specific terms, the subject of the meeting;**
- complete, but do not mail the Notice of Approval or Denial of Waiver from Certain Program Requirements (DVW 9/97);
- discuss the results of the waiver and the contents of the Notice of the Approval or Denial of Waiver form face-to-face and privately with the recipient; and
- have the recipient sign and date the form.

No friends or relatives may attend this meeting, although the Department may arrange for an interpreter, in advance.

**Waiver
Approvals**

If the good cause claim is approved, the recipient must be notified by the worker of the Central Office decision including:

- the type of waiver granted (i.e., work program, family cap, time limit);
- the length of the waiver including the beginning and end date, if applicable, of the waiver; and
- that if a waiver extension is requested, he or she may be required to document participation in a domestic violence service program, or that he or she has otherwise begun to address the domestic violence issue which led to the granting of the original waiver.

**Waiver
Approvals
(continued)**

Note: A domestic violence waiver approval does not change the rules concerning a recipient's exempt or non-exempt status. Recipients should be coded on PACES in the usual manner. A non-exempt recipient will receive the reduced need and payment standard.

Until a local office PC application is developed, Central Office will provide written notification to the director of the impending expiration of the domestic violence waiver, one month in advance of the waiver's expiration. In these cases, the worker must send an appointment letter (AL-1) to the recipient and meet with him or her. Do not mention the purpose of the meeting on the appointment letter.

- If the recipient believes the circumstances warrant an extension of the waiver, repeat the waiver request process and indicate that this is an extension request on a new waiver request form. Include all previous and current information and verifications.
- If the recipient does not want an extension of the waiver, he or she must indicate this on the original waiver request and sign the form.

Some examples of situations when the Department may approve a waiver include:

- The applicant or recipient is residing in a domestic violence shelter, safe house or other special housing for battered individuals, or in a homeless shelter due to domestic violence, and the applicant or recipient is not permitted to work while residing in such shelter, or needs to avoid any regular appearance at a location, such as work or community service, to avoid being located by the batterer.
-

**Waiver
Decision
(continued)**

The worker must:

- send an AL-1 Appointment Letter and **schedule an appointment without divulging, in specific terms, the subject of the meeting;**
- complete, but do not mail the Notice of Approval or Denial of Waiver from Certain Program Requirements (DVW 9/97);
- discuss the results of the waiver and the contents of the Notice of the Approval or Denial of Waiver form face-to-face and privately with the recipient; and
- have the recipient sign and date the form.

No friends or relatives may attend this meeting, although the Department may arrange for an interpreter, in advance.

**Waiver
Approvals**

If the good cause claim is approved, the recipient must be notified by the worker of the Central Office decision including:

- the type of waiver granted (i.e., work program, family cap, time limit);
- the length of the waiver including the beginning and end date, if applicable, of the waiver; and
- that if a waiver extension is requested, he or she may be required to document participation in a domestic violence service program, or that he or she has otherwise begun to address the domestic violence issue which led to the granting of the original waiver.

**Waiver
Approvals
(continued)**

Note: A domestic violence waiver approval does not change the rules concerning a recipient's exempt or non-exempt status. Recipients should be coded on PACES in the usual manner. A non-exempt recipient will receive the reduced need and payment standard.

Until a local office PC application is developed, Central Office will provide written notification to the director of the impending expiration of the domestic violence waiver, one month in advance of the waiver's expiration. In these cases, the worker must send an appointment letter (AL-1) to the recipient and meet with him or her. Do not mention the purpose of the meeting on the appointment letter.

- If the recipient believes the circumstances warrant an extension of the waiver, repeat the waiver request process and indicate that this is an extension request on a new waiver request form. Include all previous and current information and verifications.
- If the recipient does not want an extension of the waiver, he or she must indicate this on the original waiver request and sign the form.

Some examples of situations when the Department may approve a waiver include:

- The applicant or recipient is residing in a domestic violence shelter, safe house or other special housing for battered individuals, or in a homeless shelter due to domestic violence, and the applicant or recipient is not permitted to work while residing in such shelter, or needs to avoid any regular appearance at a location, such as work or community service, to avoid being located by the batterer.
-

**Waiver
Approvals
(continued)**

- The applicant or recipient is unable to locate a job or community service site at which he or she can work for a minimum of 20 hours per week because the applicant or recipient must do one or more of the following that prohibits working or performing community service for a minimum of 20 hours per week: appear in court on a domestic violence matter, attend or bring his or her child to counseling, evaluations, or visitation mandated by the court or DSS because of domestic violence; attend or bring his or her child to medical appointments or physical therapy that is the result of domestic violence, or provide care for a child who has suffered or is at risk of suffering serious physical or emotional impairment due to domestic violence when the recipient has been determined essential to the care of the child.

**Waiver
Denials**

If the good cause claim is denied, the worker must meet with the recipient and review the program requirements that he or she requested to be waived.

If the waiver request was for the work program requirement, explain that he or she has ten days from the date of notification to comply with the requirement. (However, recipients who did not receive their initial 60 day job search period are still entitled to go through job search.) Remember to change ESP MIS back to the appropriate coding.

PRISMII

There are alerts on PRISM II that may be used for the family cap and for the work program requirement if it is within the recipient's first 60 days on TAFDC. In these cases, if a domestic violence waiver is granted for either one or both of these requirements, the worker should respond with the PRISM ALERT RESPONSE "Domestic Violence Waiver "when prompted to do so.

Questions

If there are any questions regarding this memo, the local office designee may call the Policy Hotline at (617)348-8478.
